

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Charis Jones	Team: Squad #3	CCRB Case #: 202005051	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 07/15/2020 9:00 AM, Wednesday, 07/15/2020 10:00 AM	Location of Incident: Brooklyn side of the Brooklyn Bridge	Precinct: 84	18 Mo. SOL 1/15/2022	EO SOL 5/4/2022	
Date/Time CV Reported Thu, 07/16/2020 12:05 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 07/16/2020 12:05 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DI Andrew Hillery	00000	925457	SRG 1
2. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Daniel Leek	26566	945913	SRG 1
2. DTS Damian Rivera	01406	922858	SRG 2
3. SSA Arthur Smarsch	03059	883386	PBMS
4. POM Ryan Swift	10866	956287	SRG 2
5. LT Richard Mack	00000	916095	SRG 4

Officer(s)	Allegation	Investigator Recommendation
A. DI Andrew Hillery	Force: Deputy Inspector Andrew Hillery used physical force against § 87(2)(b)	
B. Officers	Force: Officers used physical force against § 87(2)(b)	

Case Summary

On July 16, 2020, § 87(2)(b) filed this complaint online at the CCRB's website, referencing a video from § 87(2)(b) noted below. § 87(2)(b) did not witness this incident. On December 16, 2020, § 87(2)(b) also filed a complaint regarding this incident online at the CCRB's website.

On July 15, 2020, at approximately 10:00 a.m., on the Brooklyn side of the Brooklyn Bridge, § 87(2)(b) and other unidentified individuals participated in a protest by sitting across the Brooklyn bound traffic lane. Multiple officers, including Deputy Inspector Andrew Hillery and Police Officer Daniel Leek, both assigned to Strategic Response Group 1 (SRG 1), approached to disperse the group. DI Hillery pulled § 87(2)(b)'s hair (**Allegation A: Force**, § 87(2)(g) § 87(2)(b) reported that officers pushed protesters (**Allegation B: Force**, § 87(2)(g) § 87(2)(b))).

§ 87(2)(b) was arrested for resisting arrest, obstructing governmental administration (OGA), disorderly conduct (twice), and blocking a roadway (Board Review 01).

Multiple officers at the location recorded portions of this incident on their body-worn cameras (BWC). PO Leek's BWC captured most clearly the allegation described above (Board Review 02). The investigation also obtained a video from § 87(2)(b) which captured the same allegation from a different angle (03).

Findings and Recommendations

Allegation (A) Force: Deputy Inspector Andrew Hillery used physical force against § 87(2)(b).

Allegation (B) Force: Officers used physical force against § 87(2)(b).

On July 23, 2020, § 87(2)(b) provided a phone statement (Board Review 04). § 87(2)(b) and other individuals participated in a protest on the Brooklyn Bridge. They sat down across the traffic lane with their arms interlocked. Officers approached § 87(2)(b) and the individuals and began placing them under arrest. § 87(2)(b) and the individuals stood up and began to retreat. § 87(2)(b) stopped when she saw one of her friends being arrested. § 87(2)(b) then remembered DI Hillery grabbing and pulling her hair. DI Hillery dragged § 87(2)(b) by her hair down the bridge and they both fell to the ground in the process. DI Hillery held onto § 87(2)(b)'s hair while they were on the ground. As § 87(2)(b) attempted to stand up, three officers got on top of her and handcuffed her. DI Hillery pulled § 87(2)(b)'s hair before, during, and after officers handcuffed her. § 87(2)(b) was ultimately uncooperative in providing a verified statement (Board Review 09).

On December 22, 2020, the CCRB called § 87(2)(b) and § 87(2)(b) stated that he did not want to provide a statement (Board Review 11).

PO Leek's BWC is approximately 27 minutes in length and the audio begins at the 01:00 minute mark (Board Review 02). § 87(2)(b), § 87(2)(g)

At 01:50, protesters can be seen running past the group of officers further down the bridge towards Manhattan. Once ahead of the officers, the protesters sit down in a line. At 04:12, the protesters stand up and begin to walk backwards away from the officers as they approach. From 05:10 to 05:47, officers move into arrest an unidentified male protester on the far-right side of the protest line. At 06:44, PO Leek and other officers walk towards the protesters that have retreated and are still linking arms. From 07:14 to 07:24, DI Hillery grabs onto and pulls § 87(2)(b).

§ 87(2)(b) by her hair, separating her from the group of protesters. DI Hillery and § 87(2)(b) fall to the ground. DI Hillery continues to hold onto § 87(2)(b)'s hair while on the ground. As DI Hillery and § 87(2)(b) stand up, DI Hillery continues to hold onto § 87(2)(b)'s hair. At 07:25, PO Leek and two other officers move in and begin to handcuff § 87(2)(b). Simultaneously, DI Hillery stands next to § 87(2)(b) and continues to pull her head down by her hair with one hand. It is unclear if he is holding the bullhorn in his other hand. At 06:27, DI Hillery appears to be looking away from § 87(2)(b) and says “watch this guy, watch that guy” PO Leek stands over § 87(2)(b) and holds one of her arms behind her back as the other officers secure her other arm. During this time, DI Hillery continues to hold § 87(2)(b) down by her head. § 87(2)(b) does not appear to be jumping around or flailing her arms. At 07:35 § 87(2)(b) says, “I am not even resisting. Why are you on my hair?”

When filing this complaint, § 87(2)(b) provided a § 87(2)(b) video that is 00:17 seconds in length with audio (Board Review 03). This video captures the latter portion of the incident described above, specifically when officers place § 87(2)(b) in handcuffs. From the beginning of the video to the 00:09 mark, DI Hillery holds § 87(2)(b)'s head down by pulling her hair. Simultaneously, three other officers surround § 87(2)(b) and place her into handcuffs. § 87(2)(b) does not resist being put into handcuffs.

§ 87(2)(b), § 87(2)(g)

DI Hillery stated that he had § 87(2)(b) under observation prior to their physical interaction because her arms were locked, and she was communicating with the people around her. She was also very distinctive because she had long hair. Several officers grabbed a male protester near § 87(2)(b). § 87(2)(b) turned and pulled the male protester away from the officers. DI Hillery went to grab § 87(2)(b) to arrest her for Obstructing Governmental Administration (OGA), Disorderly Conduct, and Vehicle and Traffic Law violation 1156A (standing on a roadway). DI Hillery reached for § 87(2)(b)'s backpack and ended up pulling her hair. As DI Hillery pulled back, he and § 87(2)(b) turned and fell to the ground. DI Hillery continued to hold onto § 87(2)(b)'s hair while they were on the ground. He could not adjust his grip because he held onto a bullhorn in his other hand. § 87(2)(b) jumped up and DI Hillery remained on the ground with § 87(2)(b)'s hair in his hand. Officers walked over to § 87(2)(b), grabbed her arms, and placed her into handcuffs. DI Hillery held onto § 87(2)(b)'s hair as the officers handcuffed her because she continued to jump around and move her body.

DI Hillery was shown PO Leek's BWC footage beginning at 06:50 to approximately 07:40. DI Hillery was asked to identify at which point in the video § 87(2)(b) “jumped around and flailed her arms,” as he testified. DI Hillery stated that § 87(2)(b) put her arms out while officers were handcuffing. DI Hillery appears to be looking away from § 87(2)(b) and says “watch this guy, watch that guy” while pointing off screen. DI Hillery explained that he shifted his attention away from § 87(2)(b) to address someone who had come up from behind him with a skateboard and attempted to hit him with it. It is unclear whether he is holding the bullhorn in the other hand.

NYPD Patrol Guide Procedure 221-01 states that officers may use force when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise to protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances. In determining whether the use of force is reasonable, members of the service should consider several factors including the nature and severity of the crime/circumstance and the actions taken by the subject (Board Review 06).

It is undisputed that DI Hillery grabbed and pulled § 87(2)(b) by the hair. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

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Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) has been a party (Board Review 07).
 - DI Hillery has been a member-of-service for 20 years and has been named a subject in four CCRB complaints and seven allegations, none of which were substantiated. § 87(2)(g)
- § 87(2)(b)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of October 22, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this incident (Board Review 10).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (Board Review 08).

Squad No.: 4

Investigator: Charis Jones Inv. Charis Jones June 2, 2021
Signature Print Title & Name Date

Squad Leader: Olga Golub SL Olga Golub 06/02/2021
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date